

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN WATERLOO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR22-2043-CJW

LYNCH FAMILY COMPANIES, INC.,

TRANSCRIPT OF
PLEA TAKING

Defendant.

_____/

The Plea Taking held before the Honorable Mark A. Roberts, Magistrate Judge of the United States District Court for the Northern District of Iowa, at the Federal Courthouse, 111 Seventh Avenue Southeast, Cedar Rapids, Iowa, July 29, 2022, commencing at 10:56 a.m.

APPEARANCES

For the Plaintiff: TIMOTHY LAWRENCE VAVRICEK, ESQ.
Assistant United States Attorney
111 Seventh Avenue Southeast
Cedar Rapids, IA 52401

For the Defendant: MARC KRICKBAUM, ESQ.
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1 (The following transcript was prepared from an audio
2 recording.)

3 * * * *

4 THE COURT: Please be seated. The matter now
5 before the Court is the United States versus Lynch Family
6 Companies, Inc., Number 22-CR-2043. The United States is
7 represented by Assistant United States Attorney Tim
8 Vavricek. I recognize Mr. Deegan on behalf of the
9 defendant, and you must be Mr. Krickbaum on behalf of the
10 defendant also?

11 MR. KRICKBAUM: Yes. Good morning, Your Honor.

12 THE COURT: Good morning.

13 Looks like you might be in the speaker's seat today,
14 Mr. Deegan. Is that correct?

15 MR. DEEGAN: Yes, Your Honor.

16 THE COURT: Seems like you might have a
17 representative of Lynch Family Companies, Inc., with you
18 here today. Could you tell me who that is?

19 MR. DEEGAN: Yes, Your Honor. This is Mr. Gary
20 Lynch. Pursuant to an appropriate board action from
21 Lynch Family Companies, he is an authorized
22 representative of the business. He has been specifically
23 authorized to enter a plea of guilty on behalf of the
24 corporation and also to agree to facts on behalf of the
25 corporation. These are facts that are known to the

1 business, not necessarily to Mr. Lynch personally, but
2 that he can agree on behalf of the corporation that they
3 are true.

4 THE COURT: All right. Very well. Mr. Lynch,
5 I understand you're here on behalf of Lynch Family
6 Companies, Inc. We do corporate guilty pleas somewhat
7 less frequently than we do crimes that involve
8 individuals. When I refer to you today, unless I'm
9 talking about you personally for some reason when I'm
10 speaking of you, I may do that out of habit, but I'm
11 referring to Lynch Family Companies, the company that you
12 represent. But if there's something that's unclear about
13 my questions when I refer to you that way or some other
14 way, please let me know.

15 It is important that you understand everything that
16 happens here today. So if there is something that you
17 don't understand, could you please stop me and let me
18 know?

19 MR. LYNCH: Yes, I will.

20 THE COURT: And that microphone is movable, and
21 you're welcome to pull that close so that we can hear
22 you.

23 Could you please state your full name.

24 MR. LYNCH: Gerald J. Lynch.

25 THE COURT: And how old are you?

1 MR. LYNCH: 75.

2 THE COURT: How far have you gone through
3 school?

4 MR. LYNCH: 12th grade.

5 THE COURT: Can you think of any reason that
6 you might have difficulty understanding these
7 proceedings?

8 MR. LYNCH: No.

9 THE COURT: And I believe Mr. Deegan spoke to
10 the fact that you've been authorized by the board of
11 Lynch Family Companies, Inc., to speak on its behalf
12 today. Is that correct?

13 MR. LYNCH: Yes.

14 THE COURT: I need to advise you of certain
15 constitutional rights. The corporation has the right to
16 remain silent. That's also a right that you have
17 personally. That means neither you nor the corporation
18 has to say anything, and if you as a representative of
19 the corporation or personally give up that right and make
20 a statement, the government can use that statement
21 against you or the corporation. Do you understand your
22 right to remain silent?

23 MR. LYNCH: Yes.

24 THE COURT: You have the right to hire and be
25 represented by a lawyer, but you're not entitled to

1 rep -- representation at public expense. But that
2 doesn't appear to be an issue here today. I understand
3 you've retained -- you and your company have retained
4 Mr. Deegan and Mr. Krickbaum to represent you. Is that
5 correct?

6 MR. LYNCH: Yes.

7 THE COURT: Do you understand your rights with
8 respect to having an attorney represent you?

9 MR. LYNCH: Yes.

10 THE COURT: The corporation has been charged in
11 what's called an information with the crime of failing to
12 comply with an order of the Secretary of Agriculture. Do
13 you have a copy of that information?

14 MR. LYNCH: Yes.

15 THE COURT: Could you take a look at the
16 caption with me, please, where the company is charged in
17 the name Lynch Family Companies, Inc. Is that the
18 corporation's true name?

19 MR. LYNCH: Yes.

20 THE COURT: Is it spelled correctly?

21 MR. LYNCH: Yes.

22 THE COURT: The corporation is entitled to have
23 this information read here in open court just to make
24 sure that everyone understands the charges against it.
25 Would you like to have Mr. Vavricek read that information

1 to you at this time, or do you waive that formal
2 requirement?

3 MR. LYNCH: No. We waive -- I waive that.

4 THE COURT: Very good. As I said, the
5 corporation has been charged in the information with a
6 felony offense, and it can be convicted of that offense
7 only if an indictment has been returned by a grand jury.
8 The corporation has the right to require the government
9 to present the case to a grand jury, or it can waive that
10 right. Does the corporation waive its right to have this
11 case presented to a grand jury?

12 MR. LYNCH: Yes.

13 THE COURT: You understand that by waiving an
14 indictment the corporation may be convicted of the charge
15 just as if a grand jury had returned an indictment
16 against it?

17 MR. LYNCH: Yes.

18 THE COURT: I have in front of me a written
19 waiver of indictment. It appears to be signed by
20 Mr. Deegan, Mr. Krickbaum, and Mr. Lynch on behalf of
21 Lynch Families, Inc.

22 MR. LYNCH: Yes.

23 THE COURT: So I find that the defendant has
24 knowingly and voluntarily waived its right to an
25 indictment. And I understand, Mr. Lynch, that you on

1 behalf of the corporation intends to enter a plea of
2 guilty this morning to the information. Is that correct?

3 MR. LYNCH: Yes.

4 THE COURT: I don't believe we've entered a
5 standard stipulated discovery order. Mr. Vavricek, is
6 the government agreeable to the standard stipulated
7 discovery order?

8 MR. VAVRICEK: Yes, Your Honor.

9 THE COURT: Mr. Deegan?

10 MR. DEEGAN: Yes, Your Honor.

11 THE COURT: Very good. Then pursuant to Rule
12 5(f), the United States is ordered to produce all
13 exculpatory evidence to the defendant pursuant to Brady
14 versus Maryland and its progeny. Not doing so in a
15 timely manner may result in sanctions including exclusion
16 of evidence, adverse jury instructions, dismissal of
17 charges, and contempt proceedings.

18 Let's proceed then with our discussion of the guilty
19 plea. As I mentioned, Mr. Lynch, it's much more usual I
20 do this with individuals, so I'm trying to modify this so
21 it's appropriate for your corporation. But I understand
22 that the corporation intends to plead guilty to Count 1
23 of the information today. Is that correct?

24 MR. LYNCH: Yes, yes.

25 THE COURT: You need to understand that I'm a

1 United States magistrate judge, and the case has also
2 been assigned to a United States District Court judge.
3 You have the right to have a district court judge preside
4 over a guilty plea proceeding. I can preside over the
5 hearing but only with your voluntary consent. Is it
6 agreeable with you that I preside over the hearing today?

7 MR. LYNCH: Yes, yes.

8 THE COURT: Let the record also reflect that at
9 document number 7 of the Court's file is a written
10 consent to proceed before a magistrate judge. It appears
11 to be signed by Mr. Lynch, Mr. Deegan, and Mr. Krickbaum.
12 So, Mr. Lynch, with your consent, I will preside over the
13 hearing today. As I'm sure your lawyers have told you, I
14 need to ask you some questions, and your answers need to
15 be under oath. So at this point I'm going to ask you to
16 please stand and raise your right hand so I can
17 administer the oath.

18 GERALD LYNCH, CORPORATE REPRESENTATIVE, SWORN

19 THE COURT: You can be seated. You're now
20 under oath. If you knowingly lie or make a false
21 statement, the government could charge you personally
22 with the crimes of perjury or making a false statement,
23 also could charge the corporation with those crimes. And
24 if convicted of those offenses, you could be sentenced to
25 a period of imprisonment and fined. Do you understand

1 that?

2 MR. LYNCH: Yes.

3 THE COURT: It's important then that you answer
4 my questions truthfully because if you were to lie or
5 make a false statement today, the government could use
6 that very statement against you and the corporation to
7 charge you with those offenses. Do you understand that?

8 MR. LYNCH: Yes.

9 THE COURT: Now, the first few questions I have
10 for you, I really don't mean to pry, but I do need to be
11 sure that you're in a mental state today where you can
12 voluntarily and knowingly enter a guilty plea on behalf
13 of your corporation.

14 Would you please state your full name.

15 MR. LYNCH: Gerald Joseph Lynch.

16 THE COURT: Do you have any difficulty reading
17 or understanding the English language?

18 MR. LYNCH: No.

19 THE COURT: Have you ever suffered from
20 depression, anxiety, or any other mental illness?

21 MR. LYNCH: No.

22 THE COURT: Have you ever used illegal drugs or
23 abused alcohol?

24 MR. LYNCH: I quit drinking 20 years ago, and I
25 have a medical marijuana card.

1 THE COURT: Do you think your prior drug,
2 current drug, or alcohol use might affect your ability to
3 understand the proceedings here today?

4 MR. LYNCH: No.

5 THE COURT: Are you taking any medications or
6 prescription drugs for any mental or physical condition?
7 And I don't need you to list them. I just want to make
8 sure that they don't interfere with any ability to
9 understand the proceedings here today. So are you taking
10 any medications or prescription drugs?

11 MR. LYNCH: I take some pain pills and stuff
12 like that.

13 THE COURT: Do you think that would interfere
14 with your ability to understand the proceedings here
15 today?

16 MR. LYNCH: No.

17 THE COURT: Can you think of any reason that
18 you might have difficulty understanding these
19 proceedings?

20 MR. LYNCH: No.

21 THE COURT: As I mentioned before, it's
22 important that you do understand everything that happens
23 here today. So if there's something that you don't
24 understand, would you please stop me and let me know?

25 MR. LYNCH: I will.

1 THE COURT: Also we're not in any hurry, so if
2 you do want to stop and visit with Mr. Krickbaum and
3 Mr. Deegan about anything that comes up, we'll certainly
4 make time for you to visit privately.

5 Mr. Deegan, do you have any reason to believe the
6 defendant is not competent to enter a guilty plea?

7 MR. DEEGAN: No, Your Honor.

8 THE COURT: At this point, Mr. Lynch, I'm going
9 to try to talk to you about all the rights you'll be
10 giving up if you plead guilty today. It's somewhat
11 different perhaps for a corporation than an individual,
12 but most of it's the same.

13 First, of course, you don't have to plead guilty
14 today. You could go forward and have a jury trial if you
15 prefer. Do you understand that?

16 MR. LYNCH: Yes, I do.

17 THE COURT: Also as I mentioned, you have the
18 right to retain corporation -- the corporation's counsel,
19 but you don't have a right to have a lawyer appointed in
20 this case. Do you understand your right to an attorney?

21 MR. LYNCH: Yes.

22 THE COURT: Have you been generally satisfied
23 with the services provided by your attorneys?

24 MR. LYNCH: Yes.

25 THE COURT: You also have the right to have a

1 speedy and public trial before a jury of 12 people
2 selected from a cross-section of the community. Both you
3 and your corporation's lawyers would have a role in
4 selecting the people who would serve on that jury. Those
5 jurors would swear under oath to try your case fairly
6 based only on the evidence admitted at trial and based on
7 the law as given to them by the judge.

8 Any verdict by the jury would have to be unanimous.
9 That just means that all 12 people on your jury would
10 have to agree on the verdict. Do you understand your
11 right to a jury trial?

12 MR. LYNCH: Yes, I do.

13 THE COURT: There's also a presumption of
14 innocence. That means if the case went to trial the
15 judge would tell the jury that the corporation is
16 presumed innocent of these charges, and that presumption
17 of innocence could only be overcome if the government
18 produced evidence that proved the corporation's guilt
19 beyond a reasonable doubt. In fact, the trial judge
20 would tell the jury that that presumption of innocence
21 alone could be enough for Lynch Family Companies, Inc.,
22 to be found not guilty. Do you understand that?

23 MR. LYNCH: Yes.

24 THE COURT: Corporation also has the right to
25 confrontation. That means if the case went to trial, the

1 government would have to call its witnesses here in open
2 court. You'd have a right to see those witnesses, and
3 they could see you. You wouldn't have to confront the
4 government's witnesses if you didn't want to, but if you
5 wanted to challenge their testimony, you could do so by
6 having your lawyers cross-examine them. But if the
7 corporation pleads guilty here today, it will be giving
8 up any right to confront witnesses on these charges. Do
9 you understand that?

10 MR. LYNCH: Yes.

11 THE COURT: Corporation also has the right to
12 present a defense. In a criminal case like this, the
13 burden of proof is always on the government, and it would
14 never shift to you. So if your case went to trial, you
15 wouldn't have to produce any evidence if you didn't want
16 to. But if you wanted to present a defense, you could.
17 For example, you could call witnesses or offer exhibits
18 into evidence. But if you plead guilty here today, the
19 corporation will be giving up its right to present a
20 defense to these charges. Do you understand that?

21 MR. LYNCH: Yes.

22 THE COURT: Finally, you and the corporation
23 each has the right to remain silent. You could testify
24 at the trial if you wanted to, of course, but the
25 corporation and you would not have to testify, and no one

1 could make you testify. If you chose not to testify, the
2 prosecutor would not say anything about it to the jury,
3 and the judge would instruct the jurors that they could
4 not take into account in any way or, frankly, even
5 discuss among themselves the fact that you did not
6 testify in arriving at that verdict. Do you understand
7 that?

8 MR. LYNCH: Yes, I do.

9 THE COURT: In summary, if the corporation
10 pleads guilty here today, there will be no trial. The
11 corporation will be found guilty based on the
12 corporation's plea of guilty just as if a jury had
13 deliberated and returned a guilty verdict against that.
14 Do you understand that?

15 MR. LYNCH: Yes, I do.

16 THE COURT: Before I proceed to talk about the
17 elements of the offense, Mr. Vavricek, any thoughts about
18 what rights might be different in respect to this matter
19 because it involves a corporation you'd like me to
20 discuss with Mr. Lynch?

21 MR. VAVRICEK: Nothing additional, Your Honor.
22 Thank you.

23 THE COURT: Mr. Deegan, any thoughts on
24 additional rights I might discuss with Mr. Lynch or
25 anything you might change about what I've already

1 discussed with him?

2 MR. DEEGAN: No, Your Honor.

3 THE COURT: Very good. Before I can recommend
4 that the district court judge accept the corporation's
5 guilty plea, Mr. Lynch, I need to be satisfied that it
6 is, in fact, guilty as charged in the information. And
7 for Lynch Livestock, Inc., to be convicted of the crime
8 of failing to comply with an order of the Secretary of
9 Agriculture as charged in Count 1 of the information, the
10 government would have to prove three things beyond a
11 reasonable doubt. It's possible Mr. Deegan or
12 Mr. Krickbaum has those in front of you so you can read
13 along if you like. They're fairly lengthy. But what I
14 do is I read them twice. The first time I read one of
15 these, I just make sure that you understand it. Then
16 I'll go back and read it again and find out if you
17 believe it's true.

18 So the first thing the government would have to
19 prove is that all -- at all relevant times, defendant,
20 Lynch Livestock, Inc., was engaged in the business of
21 buying and selling livestock including swine and was
22 registered with the secretary of the United States
23 Department of Agriculture, the U.S.D.A., as a dealer as
24 that term is defined and used in the Packers and
25 Stockyards Act of 1921 and the regulations promulgated

1 thereunder. Do you understand the first thing the
2 government would have to prove?

3 MR. LYNCH: Yes, I do.

4 THE COURT: Is it true that at all relevant
5 times Lynch Livestock, Inc., was engaged in the business
6 of buying and selling livestock including swine and was
7 registered with the secretary of the United States
8 Department of Agriculture as a dealer as that term is
9 defined in the united -- and used in the Packers and
10 Stockyards Act of 1921 and the regulations promulgated
11 thereunder? Is all of that true?

12 MR. LYNCH: Yes, it's true.

13 THE COURT: Second, the government would have
14 to prove that in 2017 as part of a consent decision into
15 which Lynch Livestock, Inc., entered with the U.S.D.A.,
16 the secretary of the U.S.D.A. ordered Lynch Livestock,
17 Inc., to cease and desist from, among other things,
18 falsifying the accounts of purchase provided to livestock
19 producers by recording a false weight for swine and
20 creating false scale tickets. The consent decision also
21 required Lynch Livestock, Inc., to transmit true weights
22 to producers' statements of account and assure producers
23 were paid in accordance with the correct weights of the
24 livestock delivered. Do you understand the second thing
25 the government would have to prove?

1 MR. LYNCH: Yes.

2 THE COURT: Is it true that in 2017 as part of
3 a consent decision into which Lynch Li -- well, Lynch
4 Livestock, Inc., entered with the U.S.D.A., the secretary
5 of the U.S.D.A. ordered defendant to cease and desist
6 from, among other things, falsifying the accounts of
7 purchase provided to livestock producers by recording a
8 false weight for swine and creating false scale tickets;
9 the consent decision also required Lynch Livestock, Inc.,
10 to transmit true weights to producers' statements of
11 account and assure producers were paid in accordance with
12 the correct weights of the livestock delivered? Is all
13 of that true?

14 MR. LYNCH: Yes.

15 THE COURT: Then third, the government would
16 have to prove that beginning no later than 2018 and
17 continuing through at least early 2021 in the Northern
18 District of Iowa and elsewhere Lynch Livestock, Inc.,
19 knowingly failed to keep records that fully and correctly
20 disclosed all transaction in Lynch Livestock, Inc.'s,
21 business in the manner and form prescribed by the
22 secretary of the U.S.D.A. in the 2017 consent decision.
23 Specifically, at least one of Lynch Livestock, Inc.'s,
24 managers and employees used a crowbar or similar object
25 to manipulate the scales on which livestock producers'

1 swine was weighed at one of Lynch Livestock, Inc.'s,
2 buying stations at Waucoma, Fayette County, Iowa, within
3 the Northern District of Iowa, and as a result, Lynch
4 Livestock, Inc., created, kept, and provided to the
5 livestock producers' accounts records and scale tickets
6 that contained false information because they understated
7 the actual weight of swine and caused Lynch Livestock,
8 Inc., to pay the livestock producers less than what Lynch
9 Livestock, Inc., owed to the producers on their accounts.
10 Do you understand the third thing the government would
11 have to prove?

12 MR. LYNCH: Yes, I -- yes, I do.

13 THE COURT: And is it true that beginning no
14 later than 2018 and continuing through at least early
15 2021 in the Northern District of Iowa and elsewhere
16 Defendant Lynch Livestock, Inc., knowingly failed to keep
17 records that fully and correctly disclosed all
18 transactions in Lynch Livestock, Inc.'s, business in the
19 manner and form prescribed by the secretary of the
20 U.S.D.A. in the 2017 consent decision? Specifically at
21 least one of Lynch Livestock, Inc.'s, managers and
22 employees used a crowbar or similar object to manipulate
23 the scales on which livestock producers' swine was
24 weighed at one of Lynch Livestock, Inc.'s, buying
25 stations at Waucoma, Fayette County, Iowa, within the

1 Northern District of Iowa, and as a result, Lynch
2 Livestock, Inc., created, kept, and provided to the
3 livestock producers' accounts records and scale tickets
4 that contained false information because they understated
5 the actual weight of swine and caused defendant to pay
6 the livestock producers less than what Lynch Livestock,
7 Inc., owed to the producers on their accounts. Is all of
8 that true?

9 MR. LYNCH: Yes.

10 THE COURT: Throughout going through those, I
11 kept referring to the defendant as Lynch Livestock, Inc.
12 That's the former name of the current name of the
13 defendant, Lynch Families Companies, Inc. I didn't mean
14 to introduce any confusion. I take it you understood,
15 Mr. Lynch, that I was referring to what's now known as
16 the Lynch Family Companies, Inc. Is there any confusion
17 we need to clear up with respect to that issue?

18 MR. LYNCH: No, no, I understand it.

19 THE COURT: Very good. Now, I understand the
20 parties have entered into a plea agreement in this case.
21 It's in the form of a July 7, 2022, letter to Mr. Deegan
22 and Mr. Krickbaum from Mr. Vavricek, and it's been marked
23 as Government's Exhibit 1. Is that being offered into
24 evidence at this time?

25 MR. VAVRICEK: Yes, Your Honor.

1 * * * *

2 (Government Exhibit 1 was offered.)

3 * * * *

4 THE COURT: Any objection?

5 MR. DEEGAN: No, Your Honor.

6 THE COURT: Government's Exhibit 1 is admitted.

7 * * * *

8 (Government Exhibit 1 was admitted.)

9 * * * *

10 THE COURT: Do you have a copy of that in front
11 of you, Mr. Lynch?

12 MR. LYNCH: Yes, I do.

13 THE COURT: If you could -- I know there's a
14 lengthy stipulation of facts on the back of it. But on
15 page 13 of the letter itself, if you'll turn with me,
16 please, you'll see that someone has typed the name of the
17 defendant, Lynch Family Companies, Inc., with a signature
18 line. And on that signature line, I see a signature
19 dated July 8 of this year. Is that your signature?

20 MR. LYNCH: Yes, it is.

21 THE COURT: And are you authorized to sign this
22 on behalf of the defendant?

23 MR. LYNCH: Yes.

24 THE COURT: Did you review this plea agreement
25 in its entirety and in detail with Mr. Deegan and

1 Mr. Krickbaum before you signed it?

2 MR. LYNCH: Yes, I did.

3 THE COURT: And by signing it, did you intend
4 to indicate that Lynch Family Companies, Inc., formerly
5 known as Lynch Livestock, Inc., read, understood, and
6 agreed to the terms of the plea agreement?

7 MR. LYNCH: Yes, I did.

8 THE COURT: Now, I don't want you to tell me
9 what you or other representatives of your corporation may
10 have discussed with Mr. Krickbaum, Mr. Deegan, or any of
11 your attorneys. But do you feel that you had plenty of
12 time to ask or discuss, I should say first, with your
13 attorneys this plea agreement before you signed it?

14 MR. LYNCH: Yes, I did.

15 THE COURT: And you also feel that you had
16 plenty of time to ask them questions about it.

17 MR. LYNCH: Yes, I did.

18 THE COURT: Were your attorneys able to answer
19 any questions that you might have had to your
20 satisfaction?

21 MR. LYNCH: Yes, I was satisfied.

22 THE COURT: Do you or any other representatives
23 of the corporation that you're aware of have any
24 questions whatsoever about the agreement that you reached
25 with the government?

1 MR. LYNCH: No.

2 THE COURT: I would like you to turn with me
3 then to the attachment to the plea agreement. It's a
4 seven-page document called a Stipulation of Facts. And
5 at the very end of it, there's another signature line for
6 Lynch Family Companies, Inc., and on that signature line
7 I see a signature. Is that your signature?

8 MR. LYNCH: Yes, it is.

9 THE COURT: And next to each of the numbered
10 paragraphs of that stipulation of facts, I see some
11 blanks with some initials. Are those your initials in
12 those places?

13 MR. LYNCH: Yes, it -- yes, they are my
14 initials.

15 THE COURT: By signing the stipulation of facts
16 and placing your initials there, did you intend to
17 indicate that the information contained in these
18 paragraphs is true and correct?

19 MR. LYNCH: Yes.

20 THE COURT: In fact, throughout the plea
21 agreement and the stipulation of facts, wherever I see
22 blanks, I see those same initials. Are those your
23 initials in each of those places?

24 MR. LYNCH: Yes, they are.

25 THE COURT: And in the plea agreement itself,

1 did you place your initials there to indicate that you
2 read, understood, and agreed to the terms of each of
3 those paragraphs?

4 MR. LYNCH: Yes, I did.

5 THE COURT: Mr. Vavricek, did I accurately
6 describe the elements of the charge?

7 MR. VAVRICEK: Yes, Your Honor.

8 THE COURT: Have I established an adequate
9 factual basis for the guilty plea?

10 MR. VAVRICEK: Yes, Your Honor.

11 THE COURT: Mr. Deegan, do you think that
12 Mr. Lynch on behalf of Lynch Family Companies, Inc.,
13 understands the elements of the charges against it?

14 MR. DEEGAN: Yes, Your Honor.

15 THE COURT: Have I established an adequate
16 factual basis for the plea?

17 MR. DEEGAN: Yes, Your Honor.

18 THE COURT: Have you had full access to the
19 government's discovery materials?

20 MR. DEEGAN: We've not reviewed all the
21 discovery materials. We have exchanged some information
22 with the government, and the company has conducted its
23 own inquiry into these matters. We are satisfied with
24 our access to the evidence in this case.

25 THE COURT: Do you believe what you have seen

1 supports a factual basis for the defendant's guilty plea?

2 MR. DEEGAN: Yes, Your Honor.

3 THE COURT: Do you know of any possible defense
4 to the charge which you have not considered and discussed
5 with your client?

6 MR. DEEGAN: No.

7 THE COURT: At this point, Mr. Lynch, I need to
8 talk to you about the penalties that apply in this case.
9 Count 1 of the information is punishable by the following
10 penalties: First, a term of probation of at least one
11 year but not more than five years; second, a fine of not
12 more than \$500,000 or twice the gross gain or loss
13 resulting from the offense, whichever is greater; and,
14 third, a mandatory special assessment of \$400. Do you
15 understand the maximum penalties which may be imposed in
16 this case?

17 MR. LYNCH: Yes, I do.

18 THE COURT: Mr. Vavricek, what's the
19 government's position on whether I should visit with the
20 defendant about how the guidelines work in sentencing?

21 MR. VAVRICEK: Your Honor, I believe it would
22 be appropriate to discuss the guidelines.

23 THE COURT: Any objection to that, Mr. Deegan?

24 MR. DEEGAN: No, Your Honor.

25 THE COURT: At the time of your sentencing,

1 Mr. Lynch, the judge will perform a calculation under the
2 federal sentencing guidelines that are issued by the
3 United States Sentencing Commission. No doubt that will
4 provide some information about what the expected fine
5 should be.

6 It's important that you understand that the sentence
7 ultimately imposed by the judge in this case could be
8 different from what those guidelines suggest it should
9 be. Could be different from what your lawyers may have
10 predicted or estimated that you would receive. And it
11 could be all the way up to the statutory maximum fine
12 which in this case is \$500,000 or twice the gross gain or
13 loss resulting from the offense, whichever is greater.
14 Do you understand all of that?

15 MR. LYNCH: Yes, I do.

16 THE COURT: I can't think of a case,
17 Mr. Vavricek, where I've discussed probation for a
18 corporation. What's the government's position with
19 respect to what sort of supervision might be possible
20 that the defendant faces?

21 MR. VAVRICEK: Thank you, Your Honor. I think
22 it would be appropriate to, you know, advise the
23 defendant that the district court will have discretion at
24 the time of sentencing with respect to the length of the
25 term of probation and what conditions would be

1 appropriate. I would note that in our plea agreement we
2 did discuss this and came to some joint recommendation
3 with respect to those issues. But it would be
4 appropriate in the government's view to just advise the
5 corporation of the possibility.

6 THE COURT: Mr. Deegan, do you agree with that?

7 MR. DEEGAN: I do, Your Honor.

8 THE COURT: So during the term that the
9 corporation could be on probation, the sentencing judge
10 will have some discretion in imposing conditions. I
11 understand those conditions have been addressed somewhat
12 in your plea agreement, and they involve some financial
13 things I imagine. It may involve some reporting and
14 disclosure requirements.

15 I don't know exactly what the district judge will
16 ultimately require of your corporation, Mr. Lynch, but at
17 the time of your sentencing, the judge may impose certain
18 conditions on that probation. And it's important that
19 you understand that the corporation has to comply with
20 those conditions. If the corporation fails to comply
21 with those, the judge could impose some additional fines
22 or could impose some additional penalties on the
23 corporation. Do you understand all that?

24 MR. LYNCH: Yes, I do.

25 THE COURT: As a result of this conviction and

1 your plea agreement, the corporation will be required to
2 pay restitution to any victim in -- victims in this case.
3 Do you understand that?

4 MR. LYNCH: Yes, I do.

5 THE COURT: In addition, as a result of the
6 corporation's guilty plea, it may have adverse
7 consequences in administrative proceedings such as
8 license suspension or debarment. Do you understand all
9 that?

10 MR. LYNCH: Yes, I do.

11 THE COURT: Mr. Vavricek, are you aware of
12 other collateral consequences that could arise as a
13 result of Lynch Family Companies, Inc.'s, guilty plea
14 today you'd like me to discuss with it?

15 MR. VAVRICEK: No thank you, Your Honor.

16 THE COURT: Mr. Lynch, if Lynch Family
17 Companies, Inc., pleads guilty today, I'll order a
18 presentence investigation. Probation officer will
19 conduct a thorough investigation of the case and the
20 corporation's background to draft a presentence
21 investigation report. It's important that you go over
22 that report carefully with your attorneys and point out
23 any errors or omissions that you might notice so that you
24 can bring those to the attention of the probation office
25 and get them corrected because when it comes time for

1 your sentencing, the judge will rely heavily on that
2 report in trying to determine the most appropriate
3 sentence in this case. So it's really in the
4 corporation's interest to make sure it's accurate.

5 When that report is final, the court will schedule
6 your sentencing hearing, and at that sentencing hearing
7 both the corporation and the government can present
8 evidence, and the corporation can make a statement to the
9 judge to tell the judge anything the corporation thinks
10 is important to consider in determining the sentence. Do
11 you have any questions about the sentencing procedures
12 that would follow a guilty plea in this case?

13 MR. LYNCH: No, I don't.

14 THE COURT: Generally both the government and
15 you would have the right to appeal the sentence to the
16 Eighth Circuit Court of Appeals. In this case, however,
17 as part of your plea agreement, specifically paragraph
18 22, the corporation has waived certain rights to appeal
19 except under some limited circumstances. Do you
20 understand that as part of this agreement the corporation
21 is waiving certain rights to appeal?

22 MR. LYNCH: Yes.

23 THE COURT: Mr. Lynch, if the corporation
24 pleads guilty and the district court judge then accepts
25 that guilty plea, it will have no right to withdraw that

1 guilty plea later even if the corporation changes its
2 corporate mind or even if it is corporately unhappy with
3 the sentence ultimately imposed by the judge. Do you
4 understand that?

5 MR. LYNCH: Yes, I do.

6 THE COURT: Has anyone forced, pressured, or
7 threatened you or the corporation in any way to get it to
8 plead guilty or made any promises to you or the
9 corporation to get it to plead guilty other than what's
10 in the plea agreement?

11 MR. LYNCH: No.

12 THE COURT: Mr. Deegan, do you believe a guilty
13 plea in this case would be voluntary?

14 MR. DEEGAN: Yes, Your Honor.

15 THE COURT: Do you know of any legal reason why
16 the plea should not be accepted?

17 MR. DEEGAN: No, Your Honor.

18 THE COURT: Do you know of anything the Court
19 has omitted which could affect the validity of the plea?

20 MR. DEEGAN: No, Your Honor.

21 THE COURT: Mr. Vavricek, do you know of
22 anything the Court has omitted which could affect the
23 validity of the plea?

24 MR. VAVRICEK: No, Your Honor.

25 THE COURT: Well, Mr. Lynch, we've certainly

1 covered a lot of information here this morning, and I do
2 want to make a moment -- take a moment to be sure that
3 you understood it all so you don't come back next week or
4 next month or next year and say that you didn't
5 understand something or that somebody forced or pressured
6 you to plead guilty. Have you been able to understand
7 everything we've talked about?

8 MR. LYNCH: Yes, we have.

9 THE COURT: Do you have any questions about it?

10 MR. LYNCH: No, I don't.

11 THE COURT: Has anybody forced or pressured you
12 to plead guilty?

13 MR. LYNCH: No.

14 THE COURT: Is your decision to plead guilty a
15 voluntary decision?

16 MR. LYNCH: Yes.

17 THE COURT: Then formally and for the record,
18 how does Lynch Family Companies, Inc., plead to Count 1
19 of the information which charges it with the crime of
20 failing to comply with an order of the Secretary of
21 Agriculture? Guilty or not guilty?

22 MR. LYNCH: Guilty.

23 THE COURT: Did you say guilty?

24 MR. LYNCH: Yes, I --

25 THE COURT: Very good. The record will reflect

1 that the defendant has pleaded guilty to Count 1 of the
2 information.

3 I find that the defendant is competent as is
4 Mr. Lynch, that the corporation fully understands charges
5 against it, that there's a factual basis for the plea,
6 that the corporation knows the maximum punishments that
7 could be imposed on the charge, the corporation has
8 waived its jury rights that it fully understands.

9 I further find that the defendant's decision to
10 plead guilty was voluntary, knowing, and not the result
11 of any force, pressure, threats, or promises other than
12 the promises made by the government in the plea
13 agreement.

14 Therefore, I conclude the defendant should be found
15 guilty based on its plea of guilty.

16 I will sign and file a report and recommendation
17 recommending that the district court judge accept the
18 defendant's guilty plea. The parties will have 14 days
19 from the filing of my report to file objections to it.
20 If no objection is made, then the district court judge
21 may accept my recommendation and the defendant's guilty
22 plea by simply entering a written order doing so.

23 I hereby order a presentence investigation, and the
24 court will schedule a sentencing hearing in this case for
25 a later date.

1 Mr. Lynch, do you have any questions about anything
2 we've discussed here today?

3 MR. LYNCH: No, I don't.

4 THE COURT: Is there anything further on behalf
5 of the United States?

6 MR. VAVRICEK: No, Your Honor.

7 THE COURT: Mr. Deegan or Mr. Krickbaum,
8 anything further on behalf of Lynch Family Companies,
9 Inc.?

10 MR. DEEGAN: No, Your Honor. Thank you.

11 THE COURT: Thank you all. That will conclude
12 our hearing.

13 (The foregoing plea was
14 concluded at 11:32 a.m.)

15 * * * *

16 (This concludes the transcript of the audio recording.)

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19

20 CERTIFICATE

21 I certify that the foregoing is a correct
22 transcript to the best of my ability from the digital
23 recording of proceedings in the above-entitled matter.

24 S/Shelly Semmler 9-4-22
25 Shelly Semmler, RDR, CRR Date